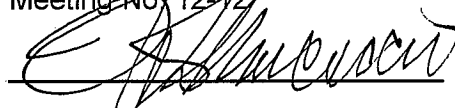
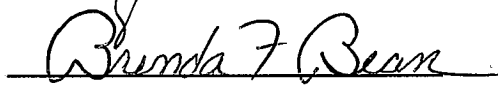


APPROVED: Meeting No. 12-12

ATTEST:

MAYOR AND COUNCIL  
ROCKVILLE, MARYLAND

December 5, 2011

7:00 p.m.

Meeting No. 33-11

**Re: Adjournment into Executive Session on Monday, November 28, 2011, pursuant to Section 10-508(a)(7), Section 10-508(a)(8) and Section 10-508(a)(1)(i) of the State Government Article of the Annotated Code of Maryland to consult with counsel to obtain legal advice; to consult with staff, consultants or other individuals about pending litigation (Westmore Development); and to discuss the compensation of an employee over whom it has jurisdiction.**

**Motion:** to Adjourn into Executive Session pursuant to Section 10-508(a)(7), Section 10-508(a)(8) and Section 10-508(a)(1)(i) of the State Government Article of the Annotated Code of Maryland to consult with counsel to obtain legal advice; to consult with staff, consultants or other individuals about pending litigation (Westmore Development); and to discuss the compensation of an employee over whom it has jurisdiction.

Moved by Councilmember Hall, seconded by Councilmember Newton and unanimously approved.

The Mayor and Council met in Executive Session on Monday, November 28, 2011 at 9:50 p.m. in the Board Room of the Rockville Senior Center, 1150 Carnation Drive, Rockville, Maryland.

Present at the Executive Session were Mayor Phyllis Marcuccio, Councilmember John Hall, Councilmember Tom Moore, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala. Also present were Acting City Manager Jenny Kimball, City Attorney Debra Yerg Daniel, Acting City Clerk Brenda Bean, and Human Resources Director Carlos Vargas.

The topic of discussion was pending litigation (Westmore Development) and a personnel matter. The Mayor and Council gave staff direction on how to proceed with the personnel matter.

The executive session was adjourned at 10:35 p.m.

PRESENT:

Mayor Phyllis Marcuccio, Councilmember John Hall, Councilmember Tom Moore, Councilmember Bridget Newton, and Councilmember Mark Pierzchala

**STAFF PRESENT:**

Acting City Manager Jenny Kimball, City Attorney Debra Daniel and Acting City Clerk Brenda Bean.

**Re:** Executive Session on December 5, 2011, pursuant to Section 10-508(a)(1)(i) and (ii), Section 10-508(a)(7), and Section 10-508(8) of the State Government Article of the Annotated Code of Maryland, to discuss a personnel matter that affects one or more specific individuals over whom it has jurisdiction; to consult with staff about potential litigation regarding a personnel matter; and to consult with counsel to obtain legal advice regarding a personnel matter.

The motion to convene into Executive Session was moved by Councilmember Newton, seconded by Councilmember Moore and unanimously passed.

The Mayor and Council met in Executive Session on Monday, December 5, 2011 at 6:15 p.m. in the Diamondback Conference Room, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland.

Present at the Executive Session were Mayor Phyllis Marcuccio, Councilmember John Hall, Councilmember Tom Moore, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala. Also present were Acting City Manager Jenny Kimball, City Attorney Debra Yerg Daniel, and Patrick Clancy, Esquire.

The topic of discussion involved a personnel matter and potential litigation regarding a personnel matter. The Mayor and Council acted to provide direction to staff on how to move forward regarding the personnel matter.

The executive session adjourned at 7:05 p.m.

**1. Convene**

The Mayor and Council convened in regular session in the Mayor and Council Chambers, Rockville City Hall, on Monday, December 5, 2011 at 7:15 p.m.

**2. Pledge of Allegiance**

**3. Agenda Review**

Mayor Marcuccio opened the meeting and welcomed those present for the meeting, as well as the new councilmembers.

Acting City Clerk Brenda Bean reported that there were no changes to the agenda.

**4. City Manager's Report**

City Manager Kimball reported on a variety of seasonal activities scheduled throughout the month of December, including the annual Holiday Open House series at Glenview Mansion, a

performance of "The Nutcracker," holiday concerts, and more. Ms. Kimball also reported on the many ways to help during the upcoming Holiday Drive.

## **5. Chamber of Commerce Update**

Andrea Jolly, Executed Director of the Rockville Chamber of Commerce reported on the mission and background of RCOC. Ms. Jolly also reported on upcoming and ongoing events and projects of the Chamber of Commerce and introduced two of her newest Boardmembers, Jerry Pasternak and Cliff Veirs.

## **6. Citizen's Forum**

<i>Citizen</i>	<i>Issue</i>
Susan Burbage	Pepco Tree Removal
Dave Thomas	Voter Turnout
Andrea Keim	Pepco and Power outages
Jim Vitol	City Manager Search; Pumphrey's Funeral Home reverse earlier decision
Madeline Oakley	If elections were to be held Saturday, it would preclude certain people from voting; Pepco Tree removal
Lillian Forester	Tenant eviction issue removal of her tenant Alan Frankel; Tree removal by Pepco
Marjorie Morris	Pepco tree removal and tree buffer on Wootton Parkway helps with noise.
Howard Cullen	Fallsbend neighborhood resident - Pepco Tree Removal.
Carol Nicholas	Caution in tree removal of and replacing trees

## **7. Mayor and Council's Response to Citizen's Forum and Announcements**

The following members of the Mayor and Council responded: Mayor Marcuccio, Councilmembers Newton, Hall and Moore.

## **8. Announcement of Vacancies**

Mayor Marcuccio announced all vacancies to Boards and Commissions.

## **9. Consent Agenda Award Rider Bid, Articulating Loader, in the Amount of \$140,287 through Montgomery County Bid #9367000254.**

**Motion:** to approve Consent Agenda Award Rider Bid, Articulating Loader, in the Amount of \$140,287 through Montgomery County Bid #9367000254

Moved by Councilmember John Hall, seconded by Councilmember Bridget Newton and unanimously approved.

**10. Pepco Presentation on Tree Trimming and Removal**

City Forester Wayne Noll reported on Pepco's ongoing tree trimming and removal efforts within City of Rockville. Mr. Jerry Pasternak, Regional Vice President with Pepco, thanked the citizens who spoke at Citizens' Forum. He then provided the Mayor and Council with an overview of Pepco's 5-Year Enhancement Reliability Program. Dan Landry, Pepco Senior Staff Forester, and Charles Washington, Pepco Government Affairs, provided a brief overview of recent tree trimming and removal activities and presented information about a proposal to remove and replace approximately trees along Wootton Parkway within the City's right-of-way.

Highlights of the ensuing discussion included: the size and height of the new trees be planted; length of time it would take for trees to reach take to reach a suitable height; the process for actual removing of trees; the City will assist with stump removal; strong appetite for undergrounding power lines; information shared with residents that will be affected; replacement process if tree dies.

**11. Approval of Proposed Economic Development Revenue Bond Financing for National Lutheran Home and Village at 9701 Veirs Drive, Rockville.**

Director of Finance, Gavin Cohen presented the background on this item and said that it is the recommendation of staff that the Mayor and Council consider the National Lutheran Home's request to approve a Letter of Intent to issue economic development revenue bonds on their behalf, and to loan them the proceeds of the bonds. There was broad and general discussion that included: risk to the City; the process and timeline; concerns with the compressed timeframe; level of support from the community; the decreased number of residents from 400 to 350; definition of assisted living bed and level of custodial care.

**Motion to** approve the Proposed Economic Development Revenue Bond Financing for National Lutheran Home and Village at 9701 Veirs Drive, Rockville.

Moved by Councilmember Moore, seconded by Councilmember Newton and unanimously approved.

**12. Communication Tools for Mayor and Council**

Mayor Phyllis Marcuccio stated that this topic came up in the Mayor and Council Retreat with the purpose of the Council to express their opinions on the matter. Councilmember Hall said that he would not participate in the Mayor and Council Rockville Reports Column and that the *111 Maryland Avenue* show should be cancelled, due to additional economic costs and low viewership. He thought that the *Round Table* discussion with the Council worked out very well even though it had only been tried a couple of times.

Councilmember Pierzchala stated that there are precious few opportunities for a councilmember, with limited resources, to make his or her views known to the public and is in favor of keeping the quarterly columns section in the *Rockville Reports*. He agreed with Councilmember Hall in that cost versus viewership is a good reason to cancel the *111 Maryland Avenue* program. He likes the idea of the full Mayor and Council roundtable discussion and

also thinks it unnecessary for the City to have an individual page on each councilmember. Councilmember Pierzchala also noted that during the campaign he was sad to see that not many candidates took advantage of citizens' forum.

Councilmember Moore asked for numbers regarding television viewership versus web viewership. Marylou Berg responded that they can only track online viewership.

Mayor Phyllis Marcuccio stated that, bi-annually when the citizen's survey is done, Channel 11 always comes in at the bottom in terms of where citizens get their information. Mayor Marcuccio is of the opinion that not that many people actually watch Rockville 11. She, too, likes the idea of a Mayor and Council roundtable discussion.

Councilmember Tom Moore agrees with Councilmember Pierzchala in that it is very important to use as many tools as possible to communicate with Rockville residents, and that this is a great list of suggestions for communicative tools.

Ms. Berg stated that the number of times that videos and programs produced by Rockville 11 are viewed continues to grow. Ms. Berg also reported that that each year the survey states that more and more people are using the website. She noted that there is an RFP in the process for a new design for the City's website.

With respect to the RFP, Councilmember Newton said that she would like to consider web designs from Rockville firms if possible. In that vein, Ms. Berg stated that the RFP contains a requirement that Rockville citizens have the opportunity give their input as part of the redesign of the website.

Councilmember Newton said that Channel 11 has greatly improved and looks forward to even more improvements in the future. She would like to explore new and different ways to use the station. She agrees with Councilmember Pierzchala that the Mayor and Council *One-on-One* segment is a great way for citizens to get a deeper understanding of the Mayor and Council.. She, too, would also like to discontinue the *111 Maryland Avenue* program. With respect to the quarterly columns in *Rockville Reports*, Councilmember Newton said that she has no real opinion except that 300 words or less makes it difficult to say anything. She suggested giving each councilmember more space and rotating the council over a course of 5 months. Councilmember Newton said that she is pleased to know that the Roundtable program worked well in the past and is willing to try this.

Mayor Marcuccio said that she finds the mailbag idea intriguing but that the Council Support Specialist, Louise Atkins, does an amazing job in with dealing with citizen's questions and complaints. Regarding the Election Night show, the Mayor heard from many people who did not care for the show. She hopes that Channel 11 does a much better job next time.

### **13. Mayor and Council Liaisons to Boards and Commissions Report**

Councilmember Pierzchala said that he had attended the dedication event at Richard Montgomery commemorating his 230th birthday on December 2nd. Mayor Marcuccio commented on the success of the Mayor and Council Inauguration and the farewell reception for departing City Manager Scott Ullery. Councilmember Newton attended the Planning Commission on Wednesday evening.

### **14. Review & Comment regarding Future Agendas**

Provide Mayor and Council with the online form that was used to solicit feedback for the brand logo and tagline. Also include the feedback received with respect to citizen input regarding the use of the brand logo and tagline. Councilmember Pierzchala asked if he could see the form that was used to solicit feedback. Councilmember Newton asked staff for a list of all the dates where the brand logo was discussed.

**15. Review & Comment regarding Mayor and Council Action Report.**

Because this was already decided upon, Councilmember Newton requested the City Clerk position be deleted from the Action Report.

**16. Old/New Business**

With respect to Jim Vitol's request concerning emergency legislation to reverse the Pumphrey's Text Amendment, Mayor Marcuccio said she would in fact like to reexamine the issue. Councilmember Pierzchala said there was a process on this and a vote. Even if the concerns are valid, he wonders to what extent such an action can be undone. City Attorney Debra Daniel said that it would be in the form of a text amendment which would reverse the earlier decision. She said that she would explore the viability of such an action. Councilmember Hall said that there are enough questions surrounding this that it warrants further discussion. Councilmember Moore noted that the West End Citizens Association voted in support of the project. He said that the community spoke, the Mayor and Council spoke and wonders what is the question that now needs to be answered? Councilmember Hall responded that it was the nonconforming aspect of the project and also there may have been some process questions. He said that he agrees with the sentiments but does not want to spend the next two years doing things that this council wished had been done differently by the previous one. Councilmember Pierzchala said that there were no missteps by City staff and does not believe this matter should come back. Councilmember Newton agreed that the Pumphrey's Text Amendment does warrant a review and is amenable to having the conversation. Councilmember Hall said that there are a number of issues that he is interested in knowing/ensuring that conform to our own laws. He said that that the governing body does have the authority to enact emergency legislation.

**17. Adjournment**

**Motion:** to adjourn.

Upon motion by Councilmember Newton, seconded by Councilmember Hall and unanimously approved, the meeting adjourned at 10:05 p.m.